DRAFT 2007-LAz-21:
Tax on Short-term Heavy Equipment Rentals.

BILL ANALYSIS

Committee:	Revenue Laws	**Date:**	April 28, 2008
Introduced by:		**Summary by:**	Martha Walston
Version:			Committee Counsel

SUMMARY: The draft authorizes a person whose principal business is the short-term lease or rental of heavy equipment at retail to elect to pay a tax on the gross receipts from the rental or lease of the heavy equipment in lieu of property taxes on the heavy equipment.

CURRENT LAW: A business that rents out heavy equipment such as earthmoving and lifting equipment must pay property tax on the equipment. Like other personal property, the value of the heavy equipment is determined as of January 1 each year and is subject to property tax in the county or city where the equipment is located on that date. Some owners of heavy equipment rental businesses have expressed the following concerns about the unfairness and administrative inconsistencies of levying and collecting property tax on this heavy equipment:

- Some businesses do not know the location of their heavy equipment on January 1
- Some businesses, whose heavy equipment is not rented on January 1, move the equipment to a county with a lower property tax rate in order to pay lower property taxes.
- Some businesses erroneously claim their heavy equipment as inventory held for sale, and therefore, not subject to property taxes.

During the 2007 Session, House Bill 1895 was introduced in an attempt to alleviate some of these concerns and to provide a more level "playing field" for companies that rent out heavy equipment. HB 1895 was supported by several large companies whose principal business is the rental and leasing of heavy equipment. HB 1895, as introduced, authorized counties and cities to levy a privilege tax on certain businesses that rent out heavy equipment in lieu of paying property tax on the heavy equipment.[1] Under that version, the rate of the privilege tax could not exceed .0.75% and was applied to the gross receipts from the heavy equipment rentals. HB 1895 was given a favorable report in the House Committee on Commerce, Small Business and Entrepreneurship and re-referred to House Finance. During the final full week of the Session, the House Finance Committee gave a favorable report to an amended version of the bill that deleted all provisions of the first edition and replaced it with language authorizing the Revenue Laws Study Committee to study the issue of whether to impose a gross receipts tax on heavy equipment property rentals in lieu of a property tax on the equipment.

BILL ANALYSIS: The draft would allow a person whose principal business is the short-term[2] lease or rental of heavy equipment to elect to pay a tax on the gross receipts from the rental or lease of the heavy equipment in lieu of a property tax on the heavy equipment.

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[1] The businesses that were subject to the tax are businesses engaged in renting construction, mining, forestry, commercial and industrial equipment as defined in the North American Industry Classification System(NAICS) adopted by the US Office of Management and Budget.

[2] A short-term lease is a lease or rental is for a period of less than 365 days. (G.S. 105-187.1). Under current law, a long-term lease agreement generally requires the lessee to list and pay the property taxes due on the heavy equipment.

<u>What type of heavy equipment is subject to the tax?</u>

The tax applies to the gross receipts from the short-term rental or lease of the following heavy equipment:

- Earthmoving or construction equipment that meets any of the following requirements:
  a. It is a self-propelled vehicle that is not designed to be driven on a highway.
  b. It is industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or similar piece of industrial equipment.
  c. It is an attachment or an accessory for a vehicle or piece of equipment described in a. or b.

<u>What is the rate to be applied to the gross receipts from the short-term lease or rental of heavy equipment?</u>

- The rate will be determined after comparing the property tax paid in prior years by eligible businesses to the gross receipts generated by the same businesses from the short-term rental of the heavy equipment.

<u>How and when will the gross receipts tax be paid?</u>

- The gross receipts tax will be paid quarterly and will be due on the last day of the month following the end of the quarter. The tax is paid to the city finance officer and the county tax collector in the county or city where the equipment is used.

<u>How will the gross receipts tax be allocated among the counties and cities?</u>

- The tax will be allocated among the counties and cities based on where the heavy equipment subject to the tax is used. The short-term lease or rental agreement should specify the county and city, if any, where the equipment is to be used. If the agreement is silent on this specification, then the heavy equipment is considered to be used at the location of the business from which it was leased or rented. The amount to be allocated to each county and city is the tax paid on the heavy equipment used in the county or city. When the heavy equipment is used in a city, one-half of the tax paid on the equipment is allocated to the city and one-half is allocated to the county in which the city is located.

<u>How does a person revoke an election to pay gross receipts tax in lieu of property taxes?</u>

- The person must file a notice of revocation with the Department of Revenue.

EFFECTIVE DATE: This act is effective when it becomes law.

-SMLA